



## Aquinnah prepared to challenge state on casinos

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A lawsuit by the Wampanoag Tribe of Gay Head (Aquinnah) could block the state from moving forward with any casinos and as a July 31 deadline looms legal action appears inevitable.

In an exclusive interview with the Times, the Martha's Vineyard-based tribe's legal team, which includes Scott Crowell, one of the country's leading Indian gaming lawyers, said the state could face two federal lawsuits.

One of the suits would seek to halt the state legislation authorizing three casinos and a slot parlor from moving forward until the tribe's federal rights are settled, and the other would target Gov. Deval Patrick for failing to negotiate with the tribe in good faith, Crowell said.

Patrick is getting bad legal advice on the tribe's federal rights and is setting himself up for an "embarrassing loss" in federal court, he said.

"Hope springs eternal, but we're running out of time," Crowell said. "We're skeptical we're going to get a fair shake."

At issue is the Aquinnah tribe's land settlement, which was approved by Congress in 1987. The state has taken a hard-line approach, claiming that the Vineyard tribe waived its sovereign rights and agreed to abide by state and local laws in reaching the deal for 400-plus acres.

The tribe's legal team insists that the federal Indian Gaming Regulatory Act — approved by Congress one year after the land deal as a way for tribes to provide self determination and self governance — trumps that land agreement.

The state has stood behind a 1997 state attorney general's opinion that the tribe doesn't have the right to open a casino.

"That's been the position of the commonwealth for the past 15 years and a number of administrations," said Jason Lefferts, a spokesman for the state Executive Office of Housing and Economic Development.

"Apparently that is the wall that Gov. Patrick has chosen to hide behind in his refusal to negotiate with Aquinnah," Crowell said. "We believe we're correct and United States (courts) will support us in our position. If we have to, we'll go to court to have a federal court tell Massachusetts that's the law."

The tribe is increasingly frustrated by the state's failure to negotiate and, most recently, with an opinion from the town counsel for the town of Aquinnah that the tribe has no rights to a casino on its island land. That opinion is based largely on the same opinions the state has stood behind, which Crowell says don't apply because IGRA is a federal law.

"I realize I'm just another lawyer with an opinion," Crowell said. But that opinion is backed up by case law before the 1st Circuit Court of Appeals and by Department of the Interior positions, he said. Notably, the Narragansett Tribe of Rhode Island won an appeal and would be offering gambling on its reservation today, if it were not for the late Sen. John Chaffee's amendment on an omnibus bill that blocked the tribe's IGRA rights, he said.

"Whatever authority existed for (Massachusetts) was lost with IGRA and the only means by which the state can get that back is through an Indian-state compact," or by an act of Congress like the Rhode Island amendment that blocked the Narragansetts, Crowell said.

Cheryl Andrews-Maltais, chairwoman of the Aquinnah tribe, said Friday that the tribe continues to press forward with plans in Freetown and Lakeville. The tribe has 500 acres under agreement in those towns and has scheduled "meet and greet" sessions for Monday and Tuesday in preparation for referendum votes May 29 and June 2.

Andrews-Maltais is frustrated that the state legislation references federally recognized tribes — plural, but the governor's office won't negotiate with the Aquinnah. "Why"» the false sense of an invitation for a federally recognized tribe to game?" she said. "We've done everything we are expected to do as the state law was written. By doing what was asked of us, we thought we would have been given courtesy and respect to sit down at the table."

The governor's office is in active negotiations with the Mashpee Wampanoag for a casino proposed in Taunton.

As for those who say the tribe is posturing by proposing a casino on the island, Andrews-Maltais said it's no bluff.

"We're not looking at a Vegas, Taj Mahal-type footprint. We live here. We've been here since time and memorial," she said. "The tribe has the right to do this, and we also have an obligation to provide services for our people."

## **UPCOMING MEET AND GREETINGS**

- May 7: 4 to 8 p.m., Nephews Restaurant, 2 Crossroads Drive, East Freetown, Aquinnah Wampanoag Gaming Corp. meet and greet
- May 8: 4 to 8 p.m., Eagles Club, 233 County St., Lakeville, Aquinnah Wampanoag Gaming Corp. meet and greet

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